

EXHIBIT D

STEPHEN CHAMBERLIN
100 S. DOHENY DRIVE
LOS ANGELES CA 90048

Wednesday, 11 May 2016

Joseph N. Casas
The Casas Law Firm PC.
1745 Broadway, 17th Floor
New York NY 10019

*Re: Preliminary Expert Report Regarding Image Infringement by 109 Restaurant Corporation.,
doing business as Cafe Royale and John Doxey.*

Dear Mr. Casas

This report is per your request in the above-referenced matter.

I. Introduction

It is my understanding that **109 Restaurant Corporation., doing business as Cafe Royale and John Doxey**, (collectively “**Royale**”), have taken and used, without authority, certain photographic images of models, **Irina Voronina, Joanna Krupa and Tiffany Selby** (collectively, the “**Models**”). You asked that I evaluate and value the compensation the Models would have and should have received for the use of these Images.

It is my understanding that, because the unauthorized nature of Royale’s use and dissemination of the Models’ images is not reasonably in dispute, the only issue I was asked to address is measuring certain damages caused by such use. In particular, I was asked to prepare a preliminary report opining on the fair and just compensatory, or *actual*, damages owed to each Model for the use of their images by Royale in promotional, marketing and advertising media, on websites, social media and other forum. At this time, the report is preliminary, principally because it measures only compensatory-type damages for *known* instances in which Royale used images without authority, as well as the *known* type and number of usages. My opinions as expressed in this Report do not include any estimation or opinion regarding the calculation of other damages, such as special, consequential, exemplary, or punitive damages.

After a thorough review of the images, and after consideration of a host of factors outlined in this preliminary report, it is my expert opinion that each Model has sustained quantifiable harm and injury as a result of Royale conduct in regard to the use of these images and that the value of all presently known image infringements totals **\$460,000** in compensatory, or *actual*, damages.

Given that your investigation into this matter is ongoing, and new information may be revealed which may affect my opinion regarding the valuation of damages. As such, I reserve the right to amend this report if I am provided with new information regarding any of the Models listed, including but not limited to, newly identified Models, newly discovered images, and newly discovered usages.

QUALIFICATIONS

I have been involved in the model and talent industry working as an agent since 1989. I was an agency director at LA Models Management, which is one of the world's largest and most respected talent agencies. I also founded a talent agency called Warning Management Inc. and subsequently took the company public. I have extensive background, knowledge and experience in the modeling and talent industry. I am also an expert in the economics of image use, the valuation of image uses, model and public personality career valuation and the effective rates of work and valuation.

Over the last 26 years I have represented hundreds of the world's top models and, in that capacity, it has been my job to be intimately familiar with the modeling market, to quote work, negotiate deals and understand the particular factors driving the pricing for the particular work and the Models. I have quoted rates for my clients thousands of times. I am very familiar with the market rates for high end models today, because I continue to quote, negotiate and oversee rates, work and career development for my clients on a regular basis.

My qualifications are summarized in greater detail in my curriculum vitae, attached to this report. I am being compensated for my time at the rate of \$350 per hour. My compensation is not contingent on the outcome of this litigation, or on the opinions I express in this report, any supplemental or final report, in subsequent litigation or court testimony.

Information and Materials Reviewed

In conjunction with my preparation of this preliminary report, I have reviewed and examined the following documents, including but not limited to and where available.

1. The photographic images of the Models used by Royale, the product advertised, the usages, any alterations to the images, the media used, and the mode and scope of distribution in various markets around New York, nationally and worldwide on the web.
2. Each Model's earning history, development, growth, positioning, experience, current exposure, name recognition, personal publicity, social media profile, market demand, complimentary employment, and other factors determining and effecting earning capacity.
3. The type and caliber of clients that have traditionally employed each Model.
4. Each Model's 1099's and W-2's, contracts and cancelled checks (where available)
5. Agency records and feedback for each Model, and discussion with model when available.

Methodology/Process of Image Valuation

A. Overview

As a starting point, it is my opinion that no reputable model, and certainly not the Models here, would consider or agree to the use of their images by Royale. The principal reason is that, without exception, each Model of this caliber seeks jobs that will enhance her/his stature, protect her/his reputation and image and not serve as a potential deterrent for commercial brands to affiliate with that Model. In my experience and expertise, having one's image used in a way that would appear to sponsor, sanction, endorse, support or denote participation in the events or attendance at Royale club, would damage, harm and devalue the Model's individual careers due to the nature of the industry and product advertised by Royale.

Experientially, I recall no instance in my more than 26 years working as an agent where I or any other legitimate agent or agency would have booked a Model of the caliber of the Models for this type of client. Royale operates as a club where semi nude women entertain the clientele while serving alcohol.

The use of the Model's images in connection with promotional, marketing and advertisements for Royale events was intended to and does necessarily imply that the Model either worked at Royale, would be in attendance at the advertised event, and/or endorsed the club or events depicted. I believe that in the unlikely event a Model of this caliber would agree to such a job and usage, there would be negotiated a substantial premium for the work to offset anticipated and expected losses of marketability.

Regarding the Models identified in this preliminary report, I am informed that not one of them was ever approached by Royale or its agent, not one was ever asked to authorize or approve any use whatsoever by Royale of their image, and not one ever consented to Royale use of their likeness for any purpose whatsoever.

The rates I have established below are based on the fair market value of each Model's image for the specific appropriated use by Royale but do not consider the damage or possible end of each models' career, damage to reputation, or loss of other clients and advertisers by the Models being associated with this type of business.

B. Pricing of Work in the Modeling Industry

My opinions are based in part upon the way in which work in the modeling talent industry is priced. The rates that models are paid are based upon numerous factors, the most important of which are the following:

1. A model's desirability, based on numerous factors, including the demand for his or her services.
2. A model's work history, such as prior associations, appearances, endorsements, advertisements, etc..
3. The nature of the business seeking a model's service, the type of product, whether exclusivity is sought, the embarrassment factor from being associated with the advertisement or marketing of certain products (condoms, personal hygiene, medications etc.) or similar considerations.

4. The history of the business seeking a model's services, the style, quality and production of previous advertising and promotions, and its hiring of other models and celebrities.
5. Exposure, namely how broadly the Model's likeness will be circulated.
6. The type of exposure, or the "Usage" of the image, such as:
 - a. **Advertising:** use of an image to promote a business, company or event, on a website owned, controlled or contributed to by Royale or in a magazine or publication;
 - b. **Social Media:** including use on, but not limited to, Facebook, Twitter, Instagram, YouTube, and Tumblr;
 - c. **Third Party promotion:** use of an image to promote a third party product, company or event;
 - d. **Branding:** either manipulating an image to effectively "brand" a company and suggest the model is working at the resort, club, event or company or attaching dialogue or hash tag (#), which references, describes, labels or effectively categorizes a model and associates him/her to the product or business or similar products or business;
 - e. **Coupon:** use of an image to offer discounts for entry, participation to a club, party or event or discounts on products;
 - f. **Extra Usage:** including, but not limited to, billboards, flyers, TV usage, movies, downloads, posters, hangtags, banners and decorations;
7. The length of exposure of Usage, the period of use, and any renewals or rollovers.
8. The nature, duration and location of the actual shoot and production (In this case, the client bears no cost for the actual production of the images).

While the list of all potential factors is extensive and case specific, the foregoing factors are illustrative and particularly relevant to our case. It is the job of the talent agent to seek out particular types of work for a model, and to negotiate deals for a model based on all relevant considerations based on the particular model, the client and product, event or service advertised.

Methodology Used In Formulating My Preliminary Opinions

In estimating the compensatory, or *actual*, damages for each individual Model, I employed the same approach, methodology, and process that I would typically employ when determining what to charge a company or other entity that is interested in hiring models I represent. In addition to employing the foregoing factors, I did the following:

1. I reviewed Royale use of the photographic images of the Models, the product advertised, the Usages and the distribution of the images to various markets.
2. For the purpose of establishing a fee in an arms-length negotiation, I took into account the number of images used and the Usage of each.

3. For each of the individual Models, I established a fair market fee for the use of the Model's image, taking into account the Model's payment history over the course of their career, the Model's work quality, experience, exposure, and duration of career. For each Model, I have established a fee that I believe would be reasonable in light of industry standards, the way each Model's image was used, the earning history of each Model and the nature of Royale business.

4. *The rate of compensation is established by multiplying each image used by the number of separate types of Usage.*

V. CONCLUSION

After careful review of each Model's history, careers, development, prospective future earnings, reputations and the growing industry of endorsements, branding and new media with the possibility and potential for income from these sources, I am confident in my quotes and conclusions. Again, these figures do not take into account additional Usages of which I'm not aware.

Use of these high caliber images is insidious in itself, but the nature of the industry Royale is involved in, combined with the insinuations and language associated with the images can and will attach itself to each Model's career and as the images on the web are permanent cause irrevocable damage to reputations, future earnings and each Model's business and ability to conduct business.

As stated, the quotes are a minimum that would be required to compensate each Model for the unauthorized taking and use of these images, based upon a calculation of a cost per image per Usage, as follows:

MODEL	VALUE/ IMAGE (minimum)	# Images	Separate Usages	Damages
IRINA VORONINA	\$20,000	2	Advertising, Social Media Branding, Coupon	\$120,000
JOANNA KRUPA	\$100,000	1	Advertising, Social Media, Branding	\$300,000
TIFFANY SELBY	\$10,000	1	Advertising, Social Media, Branding, Coupon	\$40,000
TOTAL				\$460,000

If **109 Restaurant Corporation.**, had attempted to purchase the image rights of these Models to market, advertise, or promote **Cafe Royale**, its club or events, it would have had to pay at least **\$460,000** based on current market conditions and each Model's earning capabilities.

The foregoing opinions, analysis, and conclusions are based upon the documents and information I have reviewed as of the date of this report, as well as my experience in the modeling industry. I reserve the right to amend or supplement these opinions, analyses and conclusions upon receipt of additional information that may become available.



Stephen Chamberlin

05/11/2016

Date

IRINA VORONINA

Irina Voronina has modeled internationally for more than 14 years. Ms. Voronina was Playboy's Miss January 2001, and subsequently has been photographed by world famous photographers such as Teri Richardson, Mathew Rolston, Antoine Verglas, David LaChapelle and many others. Ms. Voronina landed numerous print campaigns, including Skyy Vodka, Miller Lite, Michelob Ultra, Bacardi, Sisley & Detour, to name a few. Ms. Voronina has appeared in numerous magazines including FHM, Maxim, Max (Italy), Ocean, Shape, 944, Knockout, Q (UK), People (Australia), and very recently on the covers of Kandy, Rukus and Browz magazine issues.

Ms. Voronina has acted extensively, including feature films (Reno 911, "Balls of Fury" "Towelhead" and "Piranha 3DD") and television (as a regular in the sit-com 'Svetlana', on the live action show, 'Saul of the Mole Men', and as a guest star on Nickelodeon's "iCarly").

In 2013, Ms. Voronina was named Model Of the Year by Kandy Magazine based on the highest number of digital issue downloads on iPad and iPhone. Ms. Voronina recently passed the 3 million fans mark on her Facebook fan page; her Twitter & Instagram fan following is constantly growing.

In my opinion, based on my experience and expertise in this industry, when negotiating a rate of compensation for **Irina Voronina** for the identified images used by Royale, at a *minimum*, I would quote **a rate of \$20,000 per image per usage**.

Royale used one image for Advertising and on Social Media and for Branding (Image was tagged with "Amazing rotation of 100 Dancers") and as a Coupon (Image was tagged with "Drink Specials Open - Close" and "Complimentary Buffet")

Royale used a second image for Advertising and on Social Media.

One (1) image @ \$20,000 times four (4) Usages (Advertising, Social Media, Branding, Coupon) = \$80,000

One (1) image @ \$20,000 times two (2) Usages (Advertising, Social Media) = \$40,000

Irina Voronina's Actual Damages = \$120,000

JOANNA KRUPA

Joanna Krupa is a Polish American model and actress. Ms. Krupa is best known for her appearances on the reality television shows *Dancing with the Stars*, *Poland's Next Top Model* and *The Real Housewives of Miami*.

Ms. Krupa has appeared on magazine covers including *Envy*, *FHM*, *Personal*, *Inside Sport*, *Stuff*, *Steppin' Out*, *Teeze*, *Shape* and *Maxim*, in which she was named the Sexiest Swimsuit Model in the World. *Maxim* named her #55 in its 2011 Hot 100 ranking of the world's hottest women. Ms. Krupa was voted German *Maxim*'s Model of the Year 2004–2005. Krupa has also appeared twice on the cover of *Playboy*. Ms. Krupa has also been a lingerie model for Frederick's of Hollywood. Ms. Krupa was a Miss Howard TV model for the month of December 2007.

Ms. Krupa was featured on the television show *Superstars* in June 2009.

Ms. Krupa moved from supermodel status to Celebrity quickly and has appeared on *Jimmy Kimmel*, *Chelsea Lately*, *Jenny Jones*, *Guys Choice*, *Howard Stern's On Demand*, *The View*, *Poker 2 night*, *The Wendy Williams Show*, *Twenty* one episodes of *Dancing with the Stars*, *Inside Edition* and most recently, *The Real Housewives of Miami*. Joanna as an actress has over sixteen credits including *CSI* and *Las Vegas* TV series.

Ms. Krupa is a known name and celebrity with almost half a million Instagram followers and over eight hundred thousand Facebook followers. Joanna is a spokeswoman for PETA worldwide.

In my opinion, based on my experience and expertise in this industry, when negotiating a rate of compensation for **Joanna Krupa** for the identified images used by Royale, at a *minimum*, I would quote a rate of **\$100,000 per image per usage**.

Royale used one image for Advertising and on Social Media and Branding (Image was tagged "Come to Cafe Royale and see why I am so Fabulous! ")

One (1) image @ \$100,000 times three (3) Usages (Advertising, Social Media, Branding) = \$300,000

Joanna Krupa's Actual Damages = \$300,000



Tiffany Selby began her modeling career at age one when she was crowned Miss Baby Jacksonville. Tiffany started competing in Miss Hawaiian Tropic contests and with huge success moved to LA. Selby has modeled for numerous print ads, billboards, calendars, and catalogs. Tiffany was the Playmate of the Month in the July, 2007 issue of "Playboy." She's been a spokes model for such clients as Hankook Tires, MHT Wheels, Budweiser, and Suzuki. Selby was a member of the USA National Bikini Team. Tiffany has appeared as herself on both "The Girls Next Door" and "Bikini Destinations" also the widely viewed Guitar Hero 5 TV commercial with Hugh Hefner.

Tiffany Selby is now an extremely successful real estate agent and continues to model.

In my opinion, based on my experience and expertise in this industry, when negotiating a rate of compensation for **Tiffany Selby** for the identified images used by Royale at a *minimum*, I would quote a **rate of \$10,000 per image per usage.**

Royale used one image for Advertising and on Social Media and for Branding (Image was tagged with "Amazing rotation of 100 Dancers") and as a Coupon (Image was tagged with "Drink Specials Open - Close" and "Complimentary Buffet")

One (1) image @ \$10,000 times four (4) Usages (Advertising, Social Media, Branding, Coupon) = \$40,000

Tiffany Selby's Actual Damages = \$40,000

CURRICULUM VITAE OF

STEPHEN CHAMBERLIN

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310 666 3629

Professional Experience

Rumblestorm Management

January 2009 to present

Owner - Director

Rumblestorm management is a worldwide sourcing and management company that operates as a paid scout and development platform for models working all over the world. Currently managing models both male and female in the US, France, Great Britain, Spain, Germany, Japan, Singapore, Italy, Australia and New Zealand.

Agencies that I am actively engaged and working for and with include but not limited to, IMG Models Worldwide, DNA Management NY, Major Models Worldwide, NY Models NY, Elite NY, Ford Models NY, Society Management NY, Women NY, LA Models LA, M Management LA, Next Models Worldwide, Silent Models Paris, Premier Management London, Select Models London and Storm Management London.

I place models with these and other agencies in multiple countries. I book, negotiate, invoice, collect commissions, source tear sheets and monitor usage of jobs.

Warning Management Inc.

November 1998 to August 2008

Founder - Partner - Director

A full service management company representing fashion models, actors, commercial talent, musicians, bands, photographers, directors, brands and companies. Revenues are primarily derived from commissions paid by clients, from engagements including but not limited to, bookings, endorsements, sponsorships, commissions, residuals, exclusivities and royalties. The mediums worked in include but not limited to, Print, Television, Videos, Packaging, Billboards, Point of Sale, Corporate Videos, Appearances, Speaking Engagements, Film, Events, Event Management, Organization, Consultancies and Negotiations.

My responsibilities were total management and hands on involvement in every facet of the company. As director and signatory for the company, I had a complete working knowledge of every negotiation, deal and client that we represented. I was responsible for not only branding and development of the major clients but also for branding and development of the company. I built the company from one employee and zero revenue into a publicly traded company with revenues of over \$30 million per annum.

LA Model Management (Los Angeles, CA)

NY Model Management (New York, NY)

December 1991 to May 1998

Agency Director

LA model Management is one of the world's oldest largest and most respected agencies. I represented models, commercial talent, actors, production services, runway, hair and make-up artists and casting services.

My responsibility was the development of talent and the International marketing of the company to clients worldwide. I established the first corporate client endorsements by actors and opened a whole new industry within an industry. I developed Model Searches and TV shows that were fully sponsored and are still in production now.

In January of 1995 I was relocated to NY. After leasing a premise, renovating, full build out, obtaining and installing equipment, hiring staff, training staff and establishing a client base, I opened NY models on behalf of the owner of LA models. Both NY and LA models are thriving still today.

Spott Model Management (Sydney Australia)
January 1989 to August 1991
Agency Director

Spott models was a boutique agency in Sydney specializing in the development of models for the world market. In the two years working I sent over a hundred models out to various agencies worldwide and represented more than two hundred international models on their visits to Australia.

Association of Surfing Professionals. (ASP)
December 1989 to March 1990
Tour Representative / Sponsorship Director

The Association Of Surfing Professionals is the governing body for professional surfing worldwide. I was the Pro Surfers representative on tour. I was the middle negotiator for all problems and communications between the Surfers and the Administrative body. I also wrote and actively sought Corporate sponsorships for both the Association and Professional Contests. I served as Contest Director on a number of International Events.

Australian Professional Surfers Association (APSA)
December 1985 --March 1990
Part Time Director

The Australian Professional Surfers Association is the local governing Association for the development of Professional Surfing in Australia and the regional representative for the World body the ASP. My responsibilities were to raise sponsorship money for a fully funded National circuit which was the satellite events that helped Australian and International surfers progress to the World Pro Tour. I organized a national program of contests and established a point system for advancement and selection to the World Tour.